

REMARKS

In the Office Action, claims 15-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lacy et al, U.S. Patent No. 5079,160. Applicants have amended claim 15 in response to the rejection and submit that the application is in condition for allowance. Claims 17 and 21 have also been amended in order to correct minor typographical errors.

The Examiner notes that, while Lacy teaches the use of marble agitators, Lacy "does not teach that the enhancer (called an "agitator" by Applicants) should have a void or all of Applicants' other preferred embodiments." Rather, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use *any* hard spherical implement of an appropriate size to act as an enhancer. The Examiner then notes the teaching of Lacy et al, at column 4, that the marbles could be encased in tubing to reduce their mobility.

There is absolutely no teaching or suggestion in Lacy et al of the benefits to be gained by "optimizing" to reach Applicants' invention, namely, to provide agitators with at least one void. As described in Applicants' background, the deficiencies of Lacy et al are specifically met by Applicants' invention. Namely, the marbles of Lacy et al are harder and more thermally stable, but are subject to chipping and breaking, which can result in damage to the organs being harvested. Further, in order to provide for reuse of the agitators, they must be sterilized. The marbles of Lacy et al are subject to cracking and deterioration from the severe thermal energy involved in common autoclaving sterilization procedures. More dense materials, such as solid metals, can damage the organs.


As set forth in Applicants' amended claim 15, the agitator is constructed of a material which produces an agitator with a density of between about 3.0 - 4.0 g/cm³, which material can be autoclaved. The material itself is more dense to permit a material to be used with improved

hardness and thermal stability. Applicants provide at least one void in the dense agitator to result in an average agitator density of between about 3.0 - 4.0 g/cm³. This provides a method in which the agitator will not damage the organs, yet can be safely autoclaved and reused.

Applicants traverse the Examiner's suggestion that all of the significant improvements set forth in Applicants' claims are mere optimization. Contrary to this assertion, there is no prior art cited by the Examiner to support his proposition. Further, the significant improvements set forth in the claims cannot all be addressed by a *prima facie* determination of obviousness.

Applicants submit that Applicants' method is patentable over the disclosure of Lacy et al U.S. Patent No. 5079,160. Applicants further traverse the Examiner's assertion that all of the improvements set forth in Applicants' claims are met by a finding of *prima facie* obviousness, without a single citation to relevant prior art other than Lacy et al. Applicants request reconsideration and allowance of all pending claims.

Respectfully submitted,



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